

House Bill 507 (COMMITTEE SUBSTITUTE)

By: Representatives Wilensky of the 79th, Harrell of the 106th, Stephens of the 164th, Frye of the 118th, Beverly of the 143rd, and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad
2 valorem taxation of property, so as to revise the criteria used by tax assessors to determine
3 the fair market value of real property; to provide an effective date; to provide for related
4 matters; to repeal conflicting laws; and for other purposes.

5 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

6 **SECTION 1.**

7 To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad
8 valorem taxation of property, is amended by revising paragraph (3) of Code Section 48-5-2,
9 relating to definitions, as follows:

10 "(3) 'Fair market value of property' means the amount a knowledgeable buyer would pay
11 for the property and a willing seller would accept for the property at an arm's length, bona
12 fide sale. The income approach, if data are available, shall be utilized considered in
13 determining the fair market value of income-producing property, ~~and, if,~~ If actual income
14 and expense data are voluntarily supplied by the property owner, such data shall be
15 considered in such determination. Notwithstanding any other provision of this chapter
16 to the contrary, the transaction amount of the most recent arm's length, bona fide sale in
17 any year shall be the maximum allowable fair market value for the next taxable year.
18 With respect to the valuation of equipment, machinery, and fixtures when no ready
19 market exists for the sale of the equipment, machinery, and fixtures, fair market value
20 may be determined by resorting to any reasonable, relevant, and useful information
21 available, including, but not limited to, the original cost of the property, any depreciation
22 or obsolescence, and any increase in value by reason of inflation. Each tax assessor shall
23 have access to any public records of the taxpayer for the purpose of discovering such
24 information.

25 (A) In determining the fair market value of a going business where its continued
26 operation is reasonably anticipated, the tax assessor may value the equipment,

27 machinery, and fixtures which are the property of the business as a whole where
28 appropriate to reflect the accurate fair market value.

29 (B) The tax assessor shall apply the following criteria in determining the fair market
30 value of real property:

31 (i) Existing zoning of property;

32 (ii) Existing use of property, including any restrictions or limitations on the use of
33 property resulting from state or federal law or rules or regulations adopted pursuant
34 to the authority of state or federal law;

35 (iii) Existing covenants or restrictions in deed dedicating the property to a particular
36 use;

37 (iv) Bank sales, other financial institution owned sales, or distressed sales, or any
38 combination thereof, of comparable real property;

39 (v) Decreased value of the property based on limitations and restrictions resulting
40 from the property being in a conservation easement;

41 (vi) Rent limitations, higher operating costs resulting from regulatory requirements
42 imposed on the property, and any other restrictions imposed upon the property in
43 connection with the property being eligible for any income tax credits with respect to
44 real property which are claimed and granted pursuant to either Section 42 of the
45 Internal Revenue Code of 1986, as amended, or Chapter 7 of this title or receiving any
46 other state or federal subsidies provided with respect to the use of the property as
47 residential rental property; provided, however, that properties described in this
48 division shall not be considered comparable real property for the assessment or appeal
49 of assessment of properties not covered by this division;

50 (vii)(I) In establishing the value of any property subject to rent restrictions under
51 the sales comparison approach, any income tax credits described in division (vi) of
52 this subparagraph that are attributable to a property may be considered in
53 determining the fair market value of the property, provided that the tax assessor uses
54 comparable sales of property which, at the time of the comparable sale, had unused
55 income tax credits that were transferred in an arm's length, bona fide sale.

56 (II) In establishing the value of any property subject to rent restrictions under the
57 income approach, any income tax credits described in division (vi) of this
58 subparagraph that are attributable to property may be considered in determining the
59 fair market value of the property, provided that such income tax credits generate
60 actual income to the record holder of title to the property; and

61 (viii) Any other existing factors provided by law or by rule and regulation of the
62 commissioner deemed pertinent in arriving at fair market value.

63 (B.1) The tax assessor shall not consider any income tax credits with respect to real
64 property which are claimed and granted pursuant to either Section 42 of the Internal
65 Revenue Code of 1986, as amended, or Chapter 7 of this title in determining the fair
66 market value of real property.

67 (B.2) In determining the fair market value of real property, the tax assessor shall not
68 include the value of any intangible assets used by a business, wherever located,
69 including patents, trademarks, trade names, customer agreements, and merchandising
70 agreements.

71 (C) Fair market value of 'rehabilitated historic property' as such term is defined in
72 subsection (a) of Code Section 48-5-7.2 means:

73 (i) For the first eight years in which the property is classified as 'rehabilitated
74 rehabilitated historic property', property, the value equal to the greater of the
75 acquisition cost of the property or the appraised fair market value of the property as
76 recorded in the county tax digest at the time preliminary certification on such property
77 was received by the county board of tax assessors pursuant to subsection (c) of Code
78 Section 48-5-7.2;

79 (ii) For the ninth year in which the property is classified as 'rehabilitatedrehabilitated
80 historic property', property, the value of the property as determined by division (i) of
81 this subparagraph plus one-half of the difference between such value and the current
82 fair market value exclusive of the provisions of this subparagraph; and

83 (iii) For the tenth and following years, the fair market value of such property as
84 determined by the provisions of this paragraph, excluding the provisions of this
85 subparagraph.

86 (D) Fair market value of 'landmark historic property' as such term is defined in
87 subsection (a) of Code Section 48-5-7.3 means:

88 (i) For the first eight years in which the property is classified as 'landmarklandmark
89 historic property', property, the value equal to the greater of the acquisition cost of the
90 property or the appraised fair market value of the property as recorded in the county
91 tax digest at the time certification on such property was received by the county board
92 of tax assessors pursuant to subsection (c) of Code Section 48-5-7.3;

93 (ii) For the ninth year in which the property is classified as 'landmarklandmark
94 historic property', property, the value of the property as determined by division (i) of
95 this subparagraph plus one-half of the difference between such value and the current
96 fair market value exclusive of the provisions of this subparagraph; and

97 (iii) For the tenth and following years, the fair market value of such property as
98 determined by the provisions of this paragraph, excluding the provisions of this
99 subparagraph.

100 (E) Timber shall be valued at its fair market value at the time of its harvest or sale in
101 the manner specified in Code Section 48-5-7.5.

102 (F) Fair market value of 'brownfield property' as such term is defined in subsection (a)
103 of Code Section 48-5-7.6 means:

104 (i) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,
105 for the first ten years in which the property is classified as brownfield property, or as
106 this period of preferential assessment may be extended pursuant to subsection (o) of
107 Code Section 48-5-7.6, the value equal to the lesser of the acquisition cost of the
108 property or the appraised fair market value of the property as recorded in the county
109 tax digest at the time application was made to the Environmental Protection Division
110 of the Department of Natural Resources for participation under Article 9 of Chapter 8
111 of Title 12, the 'Georgia Brownfield Act,' as amended; and

112 (ii) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,
113 for the eleventh and following years, or at the end of any extension of this period of
114 preferential assessment pursuant to subsection (o) of Code Section 48-5-7.6, the fair
115 market value of such property as determined by the provisions of this paragraph,
116 excluding the provisions of this subparagraph.

117 (G) Fair market value of 'qualified timberland property' means the fair market value
118 determined in accordance with Article 13 of this chapter."

119 **SECTION 2.**

120 This Act shall become effective on January 1, 2020.

121 **SECTION 3.**

122 All laws and parts of laws in conflict with this Act are repealed.